

Joan Stukes, *et al.*,

Plaintiffs,

*versus*Troy Nehls, *et al.*,

Defendants.

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Civil Action H-14-1862

### Opinion on Dismissal

#### 1. *Introduction.*

A man and his wife sued their neighbors and the police. The man was taken to the hospital, and his wife arrested following a celebratory evening at their house. Because they have not obeyed the court's orders and because their claims have no merit, they will be dismissed.

#### 2. *Background.*

John and Joan Stukes invited their neighbor, Leah Smith, to their house for Independence Day, 2013. That evening John and Leah drank heavily. Leah became unconscious, and John – he now surmises – fell and hit his head. Bleeding from his head, John roused Leah and led her home. When they arrived, Leah's niece greeted them and asked why John's head was bleeding. Leah offered that John's wife, Joan, had hit him. Drunk and perhaps concussed John supposed then that he had been hit. The niece called 911 and reported that Joan had hit John. John was taken to the hospital by ambulance.

The police knocked on Joan's door. She opened it slightly, but she did not let them in. After speaking with Joan, the police pushed their way into the house. Joan became belligerent and was arrested. The police looked around the back yard – not the inside – then left with Joan in custody.

#### 3. *Want of Prosecution.*

The Stukeses sued on July 3, 2014. After setting a conference for October 6, this court ordered that the Stukeses serve the defendants within sixty days. The conference was reset for

October 28. On October 20, the Stukeses requested that summonses be issued for two of the eight defendants. Because the request was improper, it was denied. Two days later, the Stukeses corrected their request, and two summonses were issued.

The Stukeses did not appear at the conference of October 28. They were ordered to appear and explain why. At that hearing, after considerable dodging and weaving, they admitted that they had no good reason for their absence. They said that because they had not served anyone, they thought they need not appear.

Six months after filing suit, the Stukeses served Brad and Leah Smith. They have not even requested summonses for the other six defendants. At the November 12 hearing they admitted that they have no intention of serving the other six defendants, lest it provoke prosecution of the criminal charge against Joan.

The Stukeses say that they were diligent in serving Brad and Leah Smith – their own neighbors for a time. Their diligence amounts to a lazy afternoon's browse of the internet. It is belied by their not having requested summonses until almost November.

4. *Faults.*

Assuming the Stukeses were diligent in serving the people whom they have sued, their claims are without facts or law to support them.

The Stukeses say that the neighbor's niece defamed Joan when she called the police. They have nothing to suggest that the niece's emergency call was made in bad faith. She had never met the Stukeses. She simply relayed what her aunt and John had said to her.

The Stukeses also say that their constitutional rights were violated by the police when they arrested Joan and searched their house. The Stukeses have no fact to show that the police acted objectively unreasonably. They responded to an emergency call about domestic violence. They encountered a belligerent woman. Her complaints about bruises on her arms are unsurprising for someone who was uncooperative and had to be dragged from her house in hand cuffs – probably grasped by the upper arm.

5. *Conclusion.*

The court pointed out the manifest errors of the Stukeses' complaint, and it allowed them to respond. The Stukeses response mirrors the sloth and vacuity of their complaint. The Stukeses will be dismissed for failing to state a claim.

Because they have done nothing but file an empty complaint, violated court orders, and because their claims have no substance, Joan and John Stukes's claims against Troy Nehls, Jessip Murphy, Jerret Nethery, Terry Robertson, William Worsham, Jillian Smith, Leah Smith, and Brad Smith will be dismissed with prejudice.

Signed on January 9, 2015, at Houston, Texas.



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Lynn N. Hughes  
United States District Judge